In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 16606 of 2005

Date of Decision: 23.11.2006

Raja Ram …Petitioner

Versus

Haryana Power General Corporation Ltd. and others …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr.RC Chatrath, Advocate,for the petitioner

Mr. Gaurav Mohunta, Advocate the respondents

M.M.KUMAR, J.

In the instant petition filed under Article 226 of the Constitution the prayer made by the petitioner is for issuance of a writ in the nature of mandamus directing the respondents to count the period of work charged service from 5.2.1979 to 31.12.1985 alongwith regular service for revised pensionary benefits. He has further claimed for counting of work charge service towards the grant of benefit of additional increments on completion of 8/18 years service and Higher Standard Pay scales after 10/20 years service as per instructions dated 15.3.2002 (Annexure P.9) as well as ACP on completion of 10/20 years of service under the AC.P. Scheme with all consequential benefits in accordance with law. The petitioner retired on 28.2.2005 on attaining the age of superannuation. On 26.7.2005 (Annexure P.12), the petitioner through his counsel has also served a legal notice.

The matter is not res-integra as the issue raised in the instant petition has already been settled by this Court in the case of Dharam Pal v. The Superintending engineer, Operation Circle UNBVNL Karnal and another (CWP No. 1150 of 2005 decided on 21.11.2006). In that case reliance has been placed on a Full Bench judgement of this Court in the case of Kesar Chand v. State of Punjab 1988(2) PLR 223 and two Division Bench judgements in the cases of Hazura Singh v. State of Punjab 2004(1) SCT 695 and Mangat Ram v. Haryana Vidyut Prasaran Nigam Ltd. 2005(4) SCT 302. Then the question regarding giving of option in terms of circular dated 6.8.1993 has also been considered in the light of two Division Bench judgements in the cases of Dilwar Singh v. Haryana Power General Corporation Limited 2006(3) SCT 412 and Ram Kumar v. Uttar Hartyana Bijli Vitran Nigam Limited 2006(3) SCT 628.

On principle, precedents as well as the rules, the claim of the petitioner deserves to be accepted. Accordingly, we allow the writ petition. The petitioner is held entitled to computation of the work charged service as qualifying service. The employer's contribution in the provident fund drawn by the petitioner shall be adjusted and set off from the arrears which may become payable after the afore-mentioned computation. The respondents shall undertake the exercise of computation of arrears and complete the same within a period of two months from the date a certified copy of this order is supplied to them. The petitioner shall also be entitled to interest on the arrears after setting off employer's contribution from provident fund @ 8 percent per annum from the date the arrears were payable till the date of payment. However, the arrears resulting from re-calculation of pay/pension after adding the aforementioned period of ad hoc service shall be confined

only to three years two months preceding the date of filing of the writ petition, which is 18.10.2005.

(M.M.Kumar)
Judge

(M.M.S.Bedi)
Judge

23.11.2006
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